

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT

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S.D. OF N.Y.W.P.

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MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
96.250.238.222,

Defendant.
-----X

Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

14 CV. 8897

JUDGE KARAS

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address
96.250.238.222, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the
“Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

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Attorneys for Plaintiff

File Hashes for IP Address 96.250.238.222

ISP: Verizon FiOS

Physical Location: New City, NY

Hit Date UTC	File Hash	Title
10/06/2014 02:15:02	CAB763AA52F09ACA95254709D410CE7CA3C323C4	Nice And Slow
10/05/2014 02:09:03	01614569618F8009863971EFA531806538DC6B3C	Hot Bath For Two
09/30/2014 08:17:30	DFB5C374BA1477FC0A823AE60A5EC9DB40214939	Sparks
09/19/2014 20:49:51	5FC4E9DEEC4674C3330589667370CCC9E89498B0	Shes A Spinner
08/29/2014 03:29:51	03FE0D296CD04104EDCD769B1198DBDA17A165A6	Paint Me White
08/27/2014 08:06:42	948DEF2CA002798338B956D9E349A669474D6E4C	Lunchtime Fantasy
08/25/2014 08:58:58	874A2891B4C21EDF0EF1C4DFA7AB0FC082648EC5	Any And All For You
08/25/2014 08:01:06	63FC12CDDF5DBE0304B7EBD6AC3B0435D01B358C	For Your Eyes Only
08/21/2014 05:14:05	61C6B894FC9D577FC3C630535621FF80874FF77A	Yours Forever
08/18/2014 21:28:45	089330FBBDFB58C26188A2DD5DDB5F9106CBB73C	In the Blind
07/27/2014 22:54:14	9725DCA424CEA692079F4259BEE503C1B16F5B5E	Summertime Lunch
07/27/2014 22:26:39	47B2F0BD4EF41C9694F85B9C8F5E225A0E67CFAF	Dancing Romance
07/27/2014 22:26:19	3BFAB5087685E9E1B5B5C3D975405D371D10CEE5	Give Me More Part 2
07/27/2014 21:12:14	0013D4296AEE4BF5D40F684D56198A365D2F6CE4	Lovers Way
07/27/2014 19:46:33	DD763F262A99C7748A2993A49D2ACCBEDCBB735E	Just Jennifer
07/27/2014 14:57:29	33D6C8CBF0ACA757D26301D2EAAEE44995017CAA	Go Down On Me
07/24/2014 01:08:45	509E83D6E70C2BF9182D1D55AA1F06EC626BB931	Listen To Me Cum
06/30/2014 20:49:56	9698CA7283D7D2E16F6325209AADBF89D502E08A	Drinks For Two
06/06/2014 17:49:05	F09E59860DED770DD0E80B5F5E39195914A9866A	Angie VIP Lounge
05/26/2014 20:25:28	E02EB5ED374EADB2927D5833F7E4A089F102AF64	Just Watch
05/26/2014 11:05:37	71544F298E0A4756026B2197D8EF2F2A43AB2FE1	A Thought of You Part 2
05/19/2014 13:19:37	5D0F65F34B7153709FD7D7869E8051544DDFD22E	Meet My Lover From Austria

EXHIBIT A

SNY29

Hit Date UTC	File Hash	Title
05/11/2014 21:11:27	0A05FD57476DB076D85453C9C23FEF5794899100	Perfect Timing
05/11/2014 15:56:08	86853DCF4B739973E7356394C67AF8988D179B15	Knock On My Door
05/06/2014 01:22:51	C7DA6619BE7850E29FC0DF0B5D3438172AB04A32	A Hot Number
05/06/2014 00:00:25	66CF4FF49B8F1DAF2429423952B71B3F48543982	Brazilian Love Affair
04/30/2014 01:26:58	56B890DBF45818C57D350DFCE7A9F33615B24F6E	My Naughty Girl
04/29/2014 22:02:57	0A9495760C51B2EA408ADC90C8A41AC17F67A425	Catching Up
04/24/2014 00:54:16	612C03BA86BC03667662E7E89245B203469DE653	Not Alone
04/07/2014 06:49:40	1DF89E6698923D6E2D6A027033AC1E7050B13BE4	Floating Emotions
03/22/2014 19:13:13	12DCB8EF377D3775352221C6ACF476C536B16C48	Trophy Wife
03/22/2014 18:15:34	CE6B231AE045C3887012245A1DEA086384431B18	Fascination With My Body
03/22/2014 18:15:13	CB6E6D6DAFD0503787C675DA97C2DF5AB1B6A4D6	Making Music
03/13/2014 13:13:56	D5226CBD8830677CBCD05B2A5157930DFB31CA11	Remembering Strawberry Wine
03/10/2014 22:35:18	1347BE0F40EC61DCFCCA3BE5125109C567D01CCC	Sweet Dreamers

Total Statutory Claims Against Defendant: 35

Copyrights-In-Suit for IP Address 96.250.238.222

ISP: Verizon FiOS

Location: New City, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
A Hot Number	PA0001878456	01/30/2014	02/18/2014	05/06/2014
A Thought of You Part 2	PA0001895665	05/13/2014	05/16/2014	05/26/2014
Angie VIP Lounge	PA0001771705	11/28/2011	01/17/2012	06/06/2014
Any And All For You	PA0001908677	08/02/2014	08/11/2014	08/25/2014
Brazilian Love Affair	PA0001895095	05/03/2014	05/12/2014	05/06/2014
Catching Up	PA0001889391	04/13/2014	04/15/2014	04/29/2014
Dancing Romance	PA0001903915	06/07/2014	06/12/2014	07/27/2014
Drinks For Two	PA0001905512	06/25/2014	07/02/2014	06/30/2014
Fascination With My Body	PA0001885189	03/17/2014	03/24/2014	03/22/2014
Floating Emotions	PA0001887126	04/05/2014	04/07/2014	04/07/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/25/2014
Give Me More Part 2	PA0001905479	06/29/2014	07/02/2014	07/27/2014
Go Down On Me	PA0001904131	06/11/2014	06/19/2014	07/27/2014
Hot Bath For Two	PA0001914734	09/20/2014	09/22/2014	10/05/2014
In the Blind	PA0001909487	08/08/2014	08/20/2014	08/18/2014
Just Jennifer	PA0001903842	06/09/2014	06/12/2014	07/27/2014
Just Watch	PA0001898092	05/22/2014	06/06/2014	05/26/2014
Knock On My Door	PA0001895763	05/09/2014	05/16/2014	05/11/2014
Listen To Me Cum	PA0001908211	07/19/2014	07/31/2014	07/24/2014
Lovers Way	PA0001905141	06/21/2014	07/02/2014	07/27/2014
Lunchtime Fantasy	PA0001781702	03/19/2012	03/19/2012	08/27/2014

EXHIBIT B

SNY29

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Making Music	PA0001883769	03/07/2014	03/22/2014	03/22/2014
Meet My Lover From Austria	PA0001898094	05/17/2014	06/06/2014	05/19/2014
My Naughty Girl	PA0001868094	10/28/2013	11/01/2013	04/30/2014
Nice And Slow	PA0001916038	09/28/2014	10/06/2014	10/06/2014
Not Alone	PA0001889410	04/09/2014	04/15/2014	04/24/2014
Paint Me White	PA0001909785	08/24/2014	08/26/2014	08/29/2014
Perfect Timing	PA0001895848	05/07/2014	05/16/2014	05/11/2014
Remembering Strawberry Wine	PA0001885184	03/11/2014	03/24/2014	03/13/2014
Shes A Spinner	PA0001914521	09/03/2014	09/17/2014	09/19/2014
Sparks	PA0001916039	09/24/2014	10/06/2014	09/30/2014
Summertime Lunch	PA0001907078	07/11/2014	07/25/2014	07/27/2014
Sweet Dreamers	PA0001883771	03/09/2014	03/24/2014	03/10/2014
Trophy Wife	PA0001883767	03/05/2014	03/22/2014	03/22/2014
Yours Forever	PA0001907573	07/15/2014	07/25/2014	08/21/2014

Total Malibu Media, LLC Copyrights Infringed: 35